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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,406	12/11/2003	Robert G. Rebeck	23389-00002	1405
27144 7590 10/18/2007 FOSTER, SWIFT, COLLINS & SMITH, P.C. 313 SOUTH WASHINGTON SQUARE LANSING, MI 48933			EXAMINER NGUYEN, CHI Q	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/707,406

Applicant(s)

REBECK, ROBERT G.

Examiner

Chi Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 8/3/2007.

#### ***Status Of Claims***

Claims 1-12 and 14-19 are pending and have been examined.

Claim 13 has been cancelled.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 12, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6,070,372 to Norman et al.

Claim 1:

Norman discloses a shelter (see Figs. 3-4) comprising a housing 12 comprising a rear wall 42, a first side wall 120, and a second side wall 140 said first and second side walls each having a rear edge connected to an end of said rear wall 42 (at 160 and 180, respectively) and a forward edge (wherein 220 points to), said rear wall and first and second side wall each having a bottom edge adapted to support said housing on a base surface, a roof member 70 pivotally (at 80) connected to a top edge of said housing, at least one panel 190 or 200 pivotally connected to at least one of said side walls 120 or

140, and wherein said at least one pivoting panel 190/200 is moveable between a first open position and a second closed position (Fig. 4).

Claim 2:

Wherein said roof member 70 is moveable between a first position and a second position (see col. 3, lines 54-55).

Claim 3:

Further comprising a platform 100 configured to attach to the housing whereby the shelter is secured.

Claim 5:

Wherein said roof member 70 is connected to said housing by at least one support member (pneumatic cylinder 90).

Claims 6 and 17:

Further inherently comprising at least one accessory consisting of at least one of the following: lamp (see col. 5, lines 24-26) for fixing equipment at nighttime.

Claim 7:

Further comprising a handle 250 attached to said roof member 70.

Claim 12:

Norman discloses a shelter comprising a rear wall 42, a first side wall 120, and a second side wall 140 affixed to opposing ends of said rear wall 42 at right angle thereto (at 160 and 180 respectively) said rear wall and first and second side walls adapted to support said shelter upright on a base surface 100, a roof member 70 pivotally (at 80) connected to a top edge of said rear wall, first 190 and second 200 pivoting panels each

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connected to a forward edge of one of said side walls (see Fig. 4), wherein each of said pivoting panels is movable between an open position and a closed position and said roof member is moveable between an open position and a closed position; Since Norman discloses the invention as claimed and thus it capable of housing a grille for user to cook.

Claim 15:

Further comprising a handle 250 attached to said roof member 70.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6,070,372 to Norman et al.

Claims 4 and 14:

Norman discloses the invention as claimed and further including a pneumatic support 90 connected to a roof panel 70 (see col. 3, lines 53-55) but does not disclose specifically the support structure connected to the roof member and at least one of the first and second side wall. It would have been obvious to have a support structure connect between a roof and side wall panels, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claims 8-9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 6,070,372 to Norman et al. in view of US Pat. No. 6,058,658 to Dunn.

Claims 8-9 and 16:

Norman discloses the basic structures for a shelter as stated but does not disclose a pull cord connected to a handle and to a roof member. Dunn discloses a barbecue grill cover 700 shown in Fig. 15 is provided with one handle 702 through which a rope or cord may be threaded so that the cover may be tied down to a deck (see col. 4, lines 46-49). At the time of the invention was made it would have been obvious to one having an ordinary skill in the art to have a pull cord connected to a handle and a cover for more securement to the cover when it not in uses.

#### ***Allowable Subject Matter***

Claims 10-11, and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9, 12, and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

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10/10/2007

/J. CHAPMAN/  
PRIMARY EXAMINER  
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